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Protection and conservation of vulnerable marine ecosystems in areas beyond national jurisdiction

Submitted by the delegation of Norway

1. Future efforts to ensure the long-term conservation and sustainable use of deep-sea resources, improve cooperation between States to that end, avoid adverse impact on the marine environment, preserve biodiversity and maintain the integrity of marine ecosystems in the high seas must be based on the harmonization of treaty obligations and involve all relevant international organizations and treaty bodies. Any new regimes concerning deep-sea resources and ecosystems should be based on a global agreement building on the 1982 United Nations Convention on the Law of the Sea and modelled on the 1995 Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. A global agreement for the implementation of the relevant provisions of the Convention on the Law of the Sea as well as other relevant conventions, such as the Convention on Biological Diversity, would best serve the purposes mentioned above and contribute to the maintenance of international peace and security.

2. The Plan of Implementation of the World Summit on Sustainable Development, as well as operative paragraph 53 of General Assembly resolution 57/141 of 12 December 2002, calls upon States to establish representative networks by 2012 of marine protected areas consistent with international law and time/area closures for the protection of nursery grounds and periods, proper coastal and land use and watershed planning and the integration of marine and coastal areas and management into key sectors.

3. Article 8 (a) of the Convention on Biological Diversity requires that parties, as far as possible, "establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity". A protected area under that Convention differs from "a particular, clearly defined area", as mentioned in article 211, paragraph 6, of the Convention on the Law of the Sea, and is understood to be "a geographically defined area which is designated or regulated and managed

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to achieve specific conservation objectives" (see article 2 of the Convention on Biological Diversity). At the same time it is clear that with regard to the marine environment, the rights and obligations set out in the Convention on Biological Diversity must not be in conflict with those laid down in the Convention on the Law of the Sea (see article 22, paragraph 2). The establishment of protected areas in the high seas would appear to be in conflict with the prohibition of article 89 of that Convention, under which "no State may validly purport to subject any part of the high seas to its sovereignty". Equally, article 137, paragraph 3, states that no claim, acquisition or exercise of any rights with respect to minerals recovered from the Area by any State or natural or juridical person shall be recognized. Furthermore, it is quite clear that no marine scientific research activities can constitute the legal basis for any claim to any part of the marine environment or its resources.

4. It would thus appear that while States parties may undertake to designate protected areas under article 8 (a) of the Convention on Biological Diversity in areas under their jurisdiction and in accordance with the Convention on the Law of the Sea, no such areas can be established on the high seas. The Johannesburg Plan of Implementation cannot alter any of this.

Cold-water coral reefs and other particularly vulnerable deep-sea habitats

5. While the protection of warm-water coral reefs has been on the international agenda for many years, the less-known cold-water coral reefs have attracted less attention. However, some of the largest coral structures in the world are found in the cold and gloomy waters of the North-East Atlantic. These reefs are an example of a very vulnerable type of habitat. Biological diversity is particularly rich on these reefs, and they are of major importance for fisheries, for research and even as a source of marine genetic resources. It is therefore of utmost importance that they be given appropriate protection.

6. The cold-water reefs in Norwegian waters are located along the entire coast. In 1999 the Norwegian authorities established a provision for the protection of coral reefs under the law on saltwater fisheries and the law governing Norway's exclusive economic zone. The use of fishing gear that is dragged along the bottom and that may come in contact with the reefs is prohibited in the protected areas, as are other harmful practices. So far the protected reefs include the Sula Ridge, the Iver Ridge and the world's largest cold-water reef, the Rost reef, which was discovered in 2002. Norwegian authorities are working to identify and subsequently protect all reefs within its economic zone.

7. Norway believes that the need for protection of cold-water coral reefs should feature more prominently on the international environmental agenda in the years to come. Norway will work on these issues within the framework of the Convention for the Protection of the Marine Environment of the North-East Atlantic. Furthermore, maybe consideration should be given to including cold-water reefs in the work of the International Coral Reef Initiative along with warm-water reefs.

Other particularly vulnerable deep-sea habitats

8. Other particularly vulnerable deep-sea habitats are seamounts, hydrothermal vents (chemosynthetic ecosystems) and deep-sea trenches. Within the area of Norwegian jurisdiction there are no seamounts or hydrothermal vents similar to those known from the mid-Atlantic area further south. However, the extension of the

Mid-Atlantic Ridge from Iceland northward to the Arctic Ocean is an area of interest.

9. The term "seamount" usually refers to large isolated elevations of volcanic origin on the deep-sea floor. Several underwater highs that may be classified as seamounts have been identified in the new multibeam bathymetry data set for the Norwegian Sea acquired by the Norwegian Petroleum Directorate. These seamounts are related to the Mohns Ridge and the Knipowitch Ridge, the mid-ocean spreading ridges between Norway and Greenland north of Jan Mayen, and to a submarine ridge along the Jan Mayen fracture zone between the Vøring Plateau and Jan Mayen. These features rise from 1,100 to 2,200 metres from the sea floor, and their summits reach up to a water depth of 1,500 to 600 metres. A number of these seamounts are situated within the exclusive economic zone of Norway, and several others are located on the extended continental shelf of Norway, in the sense of article 76 of the Convention on the Law of the Sea. So far, the seamounts of the Norwegian Sea have not been the subject of systematic marine biological research, and their associated fauna is unknown. However, recent preliminary video studies by the Institute of Geosciences of the University of Bergen show very high biological activity, including a rich benthic fauna concentrated on these seamounts. Further research is of crucial importance for the assessment and future management of these resources.

10. Underwater hydrothermal vents are hot-water springs on the seabed associated with volcanic activity and are characteristic of the mid-ocean spreading ridges of the world's oceans. They are known to be the habitat of specialized fauna not seen anywhere else. Recently, earth scientists from the University of Bergen identified a very interesting hydrothermal vent with rich microbiological fauna on the Mohns Ridge just north of Jan Mayen. The scientists also found indications of several more vents along the Mohns and Knipowitch spreading ridges, and they expect that further research will confirm these and reveal still more. If this is the case, most of the vents will be located within the exclusive economic zone of Norway, and it is expected that some will also be identified on the Norwegian continental shelf beyond the zone. Again, further research is needed, for both scientific and management reasons.

11. Finally, there are no submarine trenches (in the sense of subduction zones) in the North Atlantic.